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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,497	06/27/2002	John C. Reed	066654-0704	2174
	7590 08/05/201 C, WILL & EMERY	EXAMINER		
11682 EL CAM		SANG, HONG		
SUITE 400 SAN DIEGO, (	CA 92130-2047		ART UNIT	PAPER NUMBER
			1643	
			NOTIFICATION DATE	DELIVERY MODE
			08/05/2010	ELECTRONIC

## Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

SIP\_Docket@mwe.com

## Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)		
10/030,497	REED, JOHN C.		
Examiner	Art Unit		

NOTICE OF APPEAL  Color   Appeal was filed on		HONG SANG	1643	
1. ☑ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandomment of this application, applicant must timely file one of the following replicis: (1) an amendment, affidiaty, or other evidence (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.131; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:  a) ☑ The period for reply expires d_months from the mailing date of the final rejection.  b) ☐ The period for reply expires on: (1) the mailing date of the final rejection.  Examinar Note: If box 1 is chocked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS for The FIRMA REJECTION. See MPEP 708.07(1).  Extensions of time may be obtained under 37 CFR 1.198(a). The date on which the petition under 37 CFR 1.198(a) and the appropriate extension fee number 37 CFR 1.174(a) is calculated from: (1) the expiration date of the shortered statutory period for reply originally set in the final Office action. (2) as may reduce any example applications of time may be obtained under 37 CFR 1.178(a). The date on which the petition under 37 CFR 1.138(a) and the appropriate extension fee number 37 CFR 1.174(a) is calculated from: (1) the expiration date of the shortered statutory period for reply originally set in the final Office action. (2) as may reduce any example application and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.174(a) is calculated from: (1) the expiration date of the shortered statutory period for reply originally set in the final Office action. (2) as may reduce any semior plantage and the shortered statutory period for reply originally set in the final Office action. (2) as many reduce any semior plantage and the shortered statutory period for reply originally set in the final Office action. (2) and the shortered statutory period for reply originally s	The MAILING DATE of this communication appe	ars on the cover sheet with the c	orrespondence add	ress
application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:  a) The period for reply expires on: (1) the mailing date of the final rejection.  b) The period for reply expires on: (1) the mailing date of the final rejection.  Examiner Note: If Ibo 1 is checked, check either box (a) or (b), ONLY CHECK BOX (b) WHAN THE fireTR TEPL of the final rejection.  Examiner Note: If Ibo 1 is checked, check either box (a) or (b), ONLY CHECK BOX (b) WHAN THE fireTR TEPL of the final rejection.  Examiner Note: If Ibo 1 is checked, check either box (a) or (b), ONLY CHECK BOX (b) WHAN THE fireTR TEPL of TEPL YMAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(i).  Extensions of time may be obtained under 37 CFR 1.138(a). The date on which the petition under 37 CFR 1.138(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed in (b) above, if checked. Any ceply received by the Office later than three months after the mailing date of the final rejection, even if timely filed.  NOTICE OF APPL patient term adjustment. See 37 CFR 1.73(a) and the proposed amendment (b) filed after a final rejection, but prior to the date of filing the Notice of Appeal was been filed, any reply must be filed within the time period set forth in 3 over disciplinations of the date of filing the Notice of Appeal was been filed, any reply must be filed within the time period set forth in 3 over determining the notice of the period set forth in 3 over determining the period set forth in 3 over dete	THE REPLY FILED <u>13 July 2010</u> FAILS TO PLACE THIS APPL	ICATION IN CONDITION FOR AL	LOWANCE.	
a) The period for reply expires of months from the mailing date of the final rejection. b) The period for reply expires or. (1) the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  Examer hate: If box 1 is checked, check citisher box (a) or (b), ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706 (07()).  Extensions of time may be obtained under 37 CFR 1.136(a) The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, over if timely filed, may reduce any amend patent term adjustment. See 37 CFR 1.704(b).  NOTICE OF APPEAL  2. The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). And the proposed amendment (s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below);  (b) They raise he issue of new matter (see NOTE below);  (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for a	application, applicant must timely file one of the following rapplication in condition for allowance; (2) a Notice of Appe for Continued Examination (RCE) in compliance with 37 C	replies: (1) an amendment, affidavit al (with appeal fee) in compliance	, or other evidence, w with 37 CFR 41.31; or	hich places the (3) a Request
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than \$1% MONTHS from the mailing date of their ejection. Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE PROPERTY WAS FILED WI	<u></u>	of the final rejection.		
have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).  NOTICE OF APPEAL  2. The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 (e)), to avoid dismissal of the date of filing the Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).  AMENDMENTS  3. The proposed amendment(s) filed after a final rejection, but prior to the date of filling a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below); (b) They raise the issue of new matter (see NOTE below); (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE: (See 37 CFR 1.116 and 41.33(a)).  4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). See altached Notice of Non-Compliant Amendment (PTOL-324). See altached Notice of Non-Compliant Amendment (PTOL-324). The amendments are not in compliance with 37 CFR 1.131(a). With the new or amended claims (s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  Claim(s) objected to: (SPA) 1.116(a). The status of the claim(s) is (or wil	b) The period for reply expires on: (1) the mailing date of this Adno event, however, will the statutory period for reply expire la Examiner Note: If box 1 is checked, check either box (a) or (l	dvisory Action, or (2) the date set forth in ter than SIX MONTHS from the mailing b). ONLY CHECK BOX (b) WHEN THE	date of the final rejection	on.
<ul> <li>2. ☐ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37(a), to avoid dismissal of the date of filing the Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).</li> <li>AMENDMENTS</li> <li>3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);</li> <li>(b) ☐ They raise the issue of new matter (see NOTE below);</li> <li>(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or</li> <li>(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.</li> <li>NOTE: (See 37 CFR 1.116 and 41.33(a)).</li> <li>4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).</li> <li>5. ☐ Applicant's reply has overcome the following rejection(s): NONE.</li> <li>6. ☐ Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s) would be rejected is provided below or appended.</li> <li>7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.</li> <li>7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavi</li></ul>	have been filed is the date for purposes of determining the period of extunder 37 CFR 1.17(a) is calculated from: (1) the expiration date of the s set forth in (b) above, if checked. Any reply received by the Office later may reduce any earned patent term adjustment. See 37 CFR 1.704(b).	ension and the corresponding amount of hortened statutory period for reply original controls.	of the fee. The appropria nally set in the final Office	ate extension fee e action; or (2) as
3.	2. The Notice of Appeal was filed on A brief in compl filing the Notice of Appeal (37 CFR 41.37(a)), or any exter Notice of Appeal has been filed, any reply must be filed wi	sion thereof (37 CFR 41.37(e)), to	avoid dismissal of the	
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(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE:	<ul> <li>(a) ☐ They raise new issues that would require further cor</li> <li>(b) ☐ They raise the issue of new matter (see NOTE below</li> </ul>	isideration and/or search (see NOT w);	E below);	
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  5. ☐ Applicant's reply has overcome the following rejection(s): NONE.  6. ☐ Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) objected to: Claim(s) rejected: 89.90.92.95-101.103.106-109 and 114. Claim(s) withdrawn from consideration: 111.112.115 and 117.  AFFIDAVIT OR OTHER EVIDENCE  8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER  11. ☑ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See continuation sheet.  12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)	(d) ☐ They present additional claims without canceling a c	orresponding number of finally reje	ected claims.	
5.  Applicant's reply has overcome the following rejection(s): NONE. 6.  Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows: Claim(s) allowed:	,	11. Con attached Nation of Nan Con		DTOL 204)
8. Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) rejected: 89.90.92.95-101.103.106-109 and 114. Claim(s) withdrawn from consideration: 111.112.115 and 117.  AFFIDAVIT OR OTHER EVIDENCE 8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  REQUEST FOR RECONSIDERATION/OTHER  11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See continuation sheet.  12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)			npliant Amendment (i	PTOL-324).
7. For purposes of appeal, the proposed amendment(s): a)   will not be entered, or b)   will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) prejected: 89,90,92,95-101,103,106-109 and 114. Claim(s) withdrawn from consideration: 111,112,115 and 117.  AFFIDAVIT OR OTHER EVIDENCE  8.	6. Newly proposed or amended claim(s) would be all		imely filed amendmer	nt canceling the
Claim(s) objected to: Claim(s) rejected: 89,90,92,95-101,103,106-109 and 114. Claim(s) withdrawn from consideration: 111,112,115 and 117.  AFFIDAVIT OR OTHER EVIDENCE  8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  REQUEST FOR RECONSIDERATION/OTHER  11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  See continuation sheet.  12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s).  13. Other:  (Larry R. Helms/  (Hong Sang/	7.  For purposes of appeal, the proposed amendment(s): a) [ how the new or amended claims would be rejected is prov The status of the claim(s) is (or will be) as follows:		be entered and an ex	xplanation of
Claim(s) withdrawn from consideration:				

Continuation of 11. does NOT place the application in condition for allowance because: applicants arguments are not deemed persuasive to overcome the rejection. Applicants presented the same arguments as in the previous response. These arguments are not persuasive for the reasons set forth in the previous final office action.

It is noted claim 116 is missing from the claims.